

Subpart E—Treatment of Seized Merchandise

§ 162.41 [Reserved]

§ 162.42 Proceedings by libel.

If seizure is made under a statute which provides that the property may be seized and proceeded against by libel, the summary forfeiture procedures set forth in §§ 162.45, 162.46, and 162.47 do not apply. Such cases shall be referred to the U.S. attorney. The Fines, Penalties, and Forfeitures Officer may request the U.S. attorney to seek a decree of forfeiture providing for delivery of the property to the Fines, Penalties, and Forfeitures Officer for sale or other appropriate disposition, if such property is not to be retained for official use.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1999, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

§ 162.43 Appraisement.

(a) *Property under seizure and subject to forfeiture.* Seized property shall be appraised as required by section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606). The term “domestic value” as used therein shall mean the price at which such or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisement, such value in the principal market nearest to the place of appraisement shall be reported.

(b) *Property not under seizure.* The basis for a claim for forfeiture value or for an assessment of a penalty relating to the forfeiture value of property not under seizure is the domestic value as defined in paragraph (a) of this section, except that the value shall be fixed as of the date of the violation. In the case of entered merchandise, the date of the violation shall be the date of the entry, or the date of the filing of the document, or the commission of the act

forming the basis of the claim, whichever is later.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 79-160, 44 FR 31957, June 4, 1979; T.D. 85-123, 50 FR 29956, July 23, 1985]

§ 162.44 Release on payment of appraised value.

(a) *Value exceeding \$100,000.* Any offer to pay the appraised domestic value of seized property in order to obtain the immediate release of the property which was seized under the Customs laws or laws administered by Customs and exceeding \$100,000 in appraised domestic value, or which was seized under the navigation laws, shall be in writing, addressed to the Commissioner of Customs, and signed by the claimant or his attorney. It shall be submitted in duplicate to the Fines, Penalties, and Forfeitures Officer having jurisdiction at the port where the property was seized. Proof of ownership shall be submitted with the application if the facts in the case make such action necessary.

(b) *Value not over \$100,000—(1) Authority to accept offer.* The Fines, Penalties, and Forfeitures Officer is authorized to accept a written offer pursuant to section 614, Tariff Act of 1930, as amended (19 U.S.C. 1614), to pay the appraised domestic value of property seized under the Customs laws and to release such property if:

(i) The appraised domestic value of the seized property does not exceed \$100,000.

(ii) The Fines, Penalties, and Forfeitures Officer is satisfied that the claimant has, in fact, a substantial interest in the property; and

(iii) Entry of the seized property into the commerce of the United States is not prohibited by law.

(2) *Referral of offer.* The Fines, Penalties, and Forfeitures Officer shall refer to the Commissioner of Customs any offer where it appears that the claimant does not have a substantial interest in the seized property or where it appears it would not be in the best interest of the United States to accept.

(c) *Retention of property.* The Fines, Penalties, and Forfeitures Officer shall retain custody of the property pending